

ARTICLE 25-05

CREMATORIUMS

Chapter	
25-05-01	Licensure of Crematoriums

CHAPTER 25-05-01 LICENSURE OF CREMATORIUMS

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25-05-01-01. Licensure of crematoriums. An application to license a crematorium must be made on a form provided by the board and include the application fee of one hundred dollars. The license is good for a period of one year and may be renewed by submitting a renewal application and the renewal fee of one hundred dollars.

History: Effective May 1, 1993; amended effective May 1, 1998; April 1, 2005.

General Authority: NDCC 43-10-05

Law Implemented: NDCC 43-10-05, 43-10-25

25-05-01-01.1. Crematory requirements. A crematory must consist of:

1. A building or structure that complies with applicable local and state building codes, zoning laws and ordinances, and environmental standards, containing one or more cremation chambers or retorts for the cremation of dead human bodies;
2. A motorized mechanical device for grinding, crushing, or pulverizing the cremated remains to a granulated appearance appropriate for final disposition; and

3. An appropriate holding facility for dead human bodies awaiting cremations.

History: Effective May 1, 1998.

General Authority: NDCC 43-10-05

Law Implemented: NDCC 43-10-05, 43-10-25

25-05-01-02. Crematorium establishment. Any crematorium in the state of North Dakota shall comply with all criteria of federal and state law regarding environmental impact on the area in which it is located, including interior design and placement of the crematoria retort which must be in a completely fireproof building, and exterior design which includes size and placement of smokestack and emissions of sediment or smoke from it. The crematorium shall also conform to all applicable federal, state, and local building codes.

History: Effective May 1, 1993.

General Authority: NDCC 43-10-05, 43-10-25

Law Implemented: NDCC 43-10-05

25-05-01-03. Insurance requirements. Repealed effective May 1, 1998.

25-05-01-04. Inspection of crematoriums. Any crematorium in the state of North Dakota for the disposition of human remains through the process of cremation must be open for inspection by any authorized representative of the North Dakota state department of health, or any representative of the board.

History: Effective May 1, 1993; amended effective May 1, 1998.

General Authority: NDCC 43-10-10, 43-10-22, 43-10-25

Law Implemented: NDCC 43-10-05

25-05-01-05. Bond required. Repealed effective May 1, 1998.

25-05-01-06. Crematoriums must apprise funeral directors and consumer families of requirements. All crematoriums in the state of North Dakota must fully apprise funeral directors and consumer families of the type of container the crematorium can cremate, and that a minimum cremation unit as adjudged practical by the national cremation association of America be used. Should caskets be used in cremation, the crematorium must apprise the funeral director and family in writing what materials in caskets will be completely consumed and what caskets cannot be consumed. The crematorium must apprise the funeral director and consumer family if caskets or casket hardware are nonconsumable. It is the responsibility of the cremation authority involved to destroy on a daily basis and through proper sanitation and disposition channels available to it those caskets or their dependent parts that may remain after the cremation process. No stockpile of used caskets or parts may remain in or around the crematorium facility.

History: Effective May 1, 1993.

General Authority: NDCC 43-10-05, 43-10-25

Law Implemented: NDCC 43-10-05

25-05-01-07. Cremation requirements. All cremation facilities shall clean their retorts at the conclusion of each cremation, and bone fragments that remain must be duly reduced by equipment sanctioned by the National Cremation Association of America, and placed in a rigid sealed container of fiberglass, metal, wood, or plastic, and duly marked with the name of the person cremated, the ultimate disposition of the cremains, the name of the funeral director involved in the cremation, the age and date of birth and death of the person cremated, and the name and complete address of the cremation authority. Cremains sent through the mail must be duly marked, registered, insured, and sealed in the form for mailing and delivery as devised by the United States postal service. Cost of mailing is to be borne by the cremation authority together with the registration and insurance costs involved.

History: Effective May 1, 1993; amended effective May 1, 1998.

General Authority: NDCC 43-10-05, 43-10-25

Law Implemented: NDCC 43-10-05

25-05-01-08. Cremation authorization. Cremation authorization permits must be signed by the legal representative or representatives of the deceased, and all information with full name of decedent, date and place of birth, and date and place of death, and cause of death, and final disposition of cremains instructions, together with funeral director signature and signature of acceptance of the cremation authority shall appear on this form, together with the full legal name and legal address of the cremation authority, and the completion date and time of cremation. Copies of these forms must be kept by the cremation authority, and sent to the funeral home that has contracted the cremation authority.

History: Effective May 1, 1993; amended effective May 1, 1998.

General Authority: NDCC 43-10-05, 43-10-25

Law Implemented: NDCC 43-10-05

25-05-01-09. Penalty. Repealed effective May 1, 1998.

25-05-01-09.1. Identification of body. All licensed crematories must develop, implement, and maintain an identification procedure whereby dead human bodies can be identified from the time the crematorium accepts delivery of the remains until the cremated remains are released to an authorized party. Before cremation, an identifying disk, tab, or other permanent label must be placed within the cremated remains container before the cremated remains are released from the crematory. Each identification disk, tab, or label must have a number that must be recorded on all paperwork regarding the decedent. This procedure must be designed to reasonably ensure that the proper body is cremated and that the cremated remains are returned to the appropriate party.

History: Effective May 1, 1998.

General Authority: NDCC 43-10-05, 43-10-25

Law Implemented: NDCC 43-10-05

25-05-01-10. Prohibitions.

1. Crematoriums are forbidden to cremate fetuses, limbs, and body parts from private or public health agencies or medical schools or medical doctors unless appropriate releases are given to the crematoriums by those agencies. Copies of releases must remain with the cremation authority and the parties contracting for cremations mentioned in this section.
2. Cremation of animals and pets of any type is strictly forbidden in a crematorium designed for cremation of human remains.
3. Except for the items listed in subsection 1, crematoriums are forbidden to perform any multiple cremations of any type of human remains.

History: Effective May 1, 1993; amended effective May 1, 1998.

General Authority: NDCC 43-10-05, 43-10-25

Law Implemented: NDCC 43-10-05

25-05-01-11. Written release. Funeral directors holding cremated remains must have written release from legal next of kin before the funeral director disposes of remains in any manner other than that suggested on the cremation form. The release must clearly remove liability of the funeral director, the cremation facility or authority, or the state regulatory agency from responsibility. Copies of these forms must be provided to the next of kin, retained by the funeral director, and the cremation authority, and made available to the state board of funeral service upon request. Failure to comply may result in disciplinary action. Any cremated remains existing prior to May 1, 1993, may be disposed of ninety days after a written attempt to contact next of kin for written approval.

History: Effective May 1, 1993; amended effective May 1, 1998.

General Authority: NDCC 43-10-05

Law Implemented: NDCC 43-10-05

25-05-01-12. Unclaimed cremated remains. After twelve months, unclaimed cremated remains may be disposed of by earth burial in an established cemetery in an appropriate container. The container may hold one or more cremated remains, as long as the individual remains are kept separate. At least thirty days prior to such disposition, the funeral home shall send a written notice to the last-known address of the responsible person who directed and provided for the method of final disposition of the human remains to the effect that such remains will be disposed of unless claimed by the person within thirty days from the date of mailing such notice. The notice must be sent by registered mail, return receipt requested.

History: Effective May 1, 1998.

General Authority: NDCC 43-10-05, 43-10-06.1

Law Implemented: NDCC 43-10-06.1, 43-10-26

25-05-01-13. Sale of funeral goods. A crematorium that sells funeral goods shall comply with 16 CFR part 453. A failure to do so is grounds for disciplinary action.

History: Effective May 1, 1998.

General Authority: NDCC 43-10-05

Law Implemented: NDCC 43-10-05